

David R. Wright (#05164)
drwright@foley.com
Alexis K. Juergens (#16861)
ajuergens@foley.com
FOLEY & LARDNER LLP
95 South Main Street, Suite 2500
Salt Lake City, Utah 84111
(801) 401-8900

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

NOMATIC, INC.
a Utah limited liability company,

Plaintiff,

v.

THE TROPIC FEEL, S.L.,
a Spain corporation,

Defendant.

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

Civil Action No. _____

Plaintiff Nomatic, Inc. ("Nomatic") by and through its attorneys, hereby files and alleges against defendant The Tropic Feel, S.L. ("Tropic Feel"), as follows:

PARTIES

1. Nomatic is a corporation that is incorporated in Utah and has its principal place of business in Sandy, Utah. Nomatic sells a variety of innovative, high-quality products including backpacks, wallets, bags, and travel accessories. Nomatic has designed and sold a variety of highly-innovative products using crowdfunding campaigns which have generated millions of dollars worth of orders.

2. Upon information and belief, Tropic Feel is a corporation that is incorporated in Spain and has its principal place of business in Barcelona, Spain. Upon information and belief, Tropic Feel sells the Lift 40L Rollerbag through its website, shop.tropicfeel.com.

NATURE OF THE CLAIMS

3. This is an action for infringement of Plaintiff's United States Patent No. 10,463,124 under the Patent Act, 35 U.S.C. § 271, based on Tropic Feel's unauthorized commercial use, importation, offer for sale, and sale of the Lift 40L Rollerbag in the United States.

JURISDICTION AND VENUE

4. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Tropic Feel advertises, markets, sells, and offers its products through its websites, which advertising, marketing, selling, and offerings are available to the purchasing public across the United States, including in this District.

6. Personal jurisdiction over Tropic Feel is proper in this District because of its contacts with this judicial district.

7. Venue is proper in this district under 28 U.S.C. § 1391(c)(3) because Tropic Feel is not a resident of the United States and may be sued in any judicial district.

FACTS

The Asserted Patent

8. United States Patent Number 10,463,124 ("the '124 Patent"), entitled BACKPACK, was duly and legally issued on November 5, 2019, and names Jon Richards and

Jacob Durham as the inventors. Attached as Exhibit 1 is a true and correct copy of the '124 Patent.

9. The '124 Patent claims, among other things, a carrying bag system including a set of straps extending from a top of the bag toward a bottom of the bag, at least one opening, and a panel positioned on a back portion of the bag and configured to hold the set of straps, the panel including a bond line securing the panel to the bag, a first flap extending laterally from the bond line, a second flap extending laterally from the bond line in the opposite direction as the first flap, and a first engagement feature positioned on each of the lateral ends of the first and second flaps, and a second engagement feature complementary to and positioned on the bag opposite the first engagement feature configured to secure lateral ends of the first and second flaps to the bag.

10. Nomatic is the owner of the entire right, title, and interest in the '124 Patent.

Tropic Feel's Infringing Activities and Products

11. Upon information and belief, Tropic Feel has and continues to infringe the '124 Patent by making, using, selling, and offering for sale the Lift 40L Rollerbag in the United States that embody or use the inventions claimed in the '124 Patent. The Lift 40L Rollerbag each include a set of straps extending from the top of the bag to the bottom of the bag that can be held by a panel on the back of the bag. The panel on each bag includes a first flap and a second flap bonded to a central portion of the bag and secured on opposite sides of the bag. The flaps are each secured on the top outer corner by a first engagement feature and on the bottom outer corner by a second engagement feature. Attached as Exhibit 2 is a claim chart showing how Tropic Feel's Lift 40L Rollerbag infringes at least claims 1 and 9 of the '124 Patent.

12. Tropic Feel has known of the existence of the '124 Patent, and its acts of infringement have been willful and in disregard for the '124 Patent, without any reasonable basis for believing that it had a right to engage in the infringing conduct.

13. A letter was sent to Tropic Feel on October 20, 2022 inviting Tropic Feel to cease and desist or enter into licensing negotiations. Tropic Feel did not reply and a follow-up letter was sent January 25, 2023. Tropic Feel replied, but did not enter into licensing negotiations. A third letter was sent to Tropic Feel on March 7, 2023 but Tropic Feel did not reply. Since communicating with Nomatic regarding Tropic Feel's patent infringement, Tropic Feel has continued to sell the Lift 40L Rollerbag, knowingly infringing the claims of the '124 Patent.

14. Tropic Feel's actions serve to divert sales from Nomatic's products. These lost sales can be traced to Tropic Feel's infringement of Nomatic's patents.

COUNT I
(Patent Infringement)

15. Nomatic repeats and realleges the foregoing paragraphs as if fully set forth herein.

16. Tropic Feel has been and continues to infringe the '124 Patent by using, selling, or offering for sale in the United States, or importing into the United States, including within this judicial district, the Lift 40L Rollerbag, in violation of 35 U.S.C. § 271(a).

17. Upon information and belief, Tropic Feel has been and is inducing infringement of the '124 Patent by actively and knowingly inducing others to use, sell, offer for sale, or import the Lift 40L Rollerbag that embodies or uses the invention claimed in the '124 Patent, in violation of 35 U.S.C. § 271(b).

18. Tropic Feel's infringement has been, and continues to be knowing, intentional, and willful.

19. Tropic Feel's acts of infringement of the '124 Patent have caused and will continue to cause Nomatic damages for which Nomatic is entitled to compensation pursuant to 35 U.S.C. § 284.

20. This case is exceptional and, therefore, Nomatic is entitled to an award of attorney fees pursuant to 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Nomatic requests judgment against Tropic Feel as follows:

- A. Adjudging that Tropic Feel has infringed and actively induced infringement of the '124 Patent, in violation of 35 U.S.C. § 271 (a) and (b);
- B. Adjudging that Tropic Feel has willfully infringed one or more claims of the '124 Patent.
- C. The issuance of an injunction under 35 U.S.C. §283, enjoining Tropic Feel, its officers, agents, servants, employees, licensees, representatives, attorneys, and all other persons acting or attempting to act in concert with it, from further acts of infringement of the '124 Patent
- D. Ordering Tropic Feel to account and pay damages adequate to compensate Nomatic for Tropic Feel's infringement of the '124 Patent, including for any infringing acts not presented at trial and pre-judgment and post-judgment interest and costs, pursuant to 35 U.S.C. § 284;
- E. Ordering an accounting for any infringing sales not presented at trial and an award by the court of additional damages for any such infringing sales.

- F. Ordering that the damages award be increased up to three times the actual amount assessed, pursuant to 35 U.S.C. § 284;
- G. Declaring this case exceptional and awarding Nomatic its reasonable attorney fees, pursuant to 35 U.S.C. § 285; and
- H. Awarding such other and further relief as this Court deems just and proper.

JURY DEMAND

Nomatic hereby demands a jury trial on all issues so triable in this case.

Dated: August 22, 2024

Respectfully submitted,
Foley & Lardner, LLP

/s/ David R. Wright

David R. Wright
Alexis K. Juergens
95 South State Street
Suite 2500
Salt Lake City, Utah 84111
801-401-8900
drwright@foley.com
ajuergens@foley.com

Attorneys for Nomatic, Inc.